

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARVELLOUS A.X. GREENE,

Plaintiff,

No. 2:05-cv-0330 GEB JFM (PC)

vs.

C.D.C., et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se in a civil rights action under 42 U.S.C. § 1983. On April 30, 2008, plaintiff filed a complaint that was docketed in this action as an amended complaint. On May 9, 2008, defendants filed a document styled as an opposition to the April 30, 2008 amended complaint, and on May 21, 2008, plaintiff filed a response to defendants' opposition.

The April 30, 2008 complaint did not bear the case number assigned to this action, was not styled by plaintiff as an amended complaint, and was not accompanied by a motion for leave to file an amended complaint. Moreover, review of the April 30, 2008 complaint shows that it raises new claims that are unrelated to those at issue in the instant action, and that the claims raised therein arose at California Correctional Institution in Tehachapi, California, which is part of the Fresno Division of this Court. Good cause appearing, the Clerk

1 of the Court will be directed to return the April 30, 2008 complaint to plaintiff. A copy of said  
2 complaint will be retained in the record in this action, but it will be disregarded. The instant  
3 action will proceed on plaintiff's amended complaint filed June 15, 2005.<sup>1</sup>

4 Good cause appearing, IT IS HEREBY ORDERED that:

5 1. The Clerk of the Court is directed to return to plaintiff the complaint filed in  
6 this action on April 30, 2008; and

7 2. The April 30, 2008 complaint (docket # 57), defendants' May 9, 2008  
8 opposition (docket # 58), and plaintiff's response (docket # 59) shall be disregarded.

9 DATED: June 10, 2008.

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12 UNITED STATES MAGISTRATE JUDGE

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23 <sup>1</sup> Nothing in this order precludes plaintiff from seeking to file the April 30, 2008 complaint  
24 as a new action in the Fresno Division of this Court. The court notes however, that plaintiff has had  
25 at least four actions dismissed as frivolous or for failure to state a claim upon which relief may be  
26 granted. See Greene v. Reyes, No. CIV S-00-0196 LKK DAD P; Greene v. State of California, No.  
CIV S-02-2398 FCD PAN P; Greene v. CDC, No. CIV S-04-1217 DFL KJM P; and Greene v. CDC,  
04-2383 FCD DAD P. Plaintiff is therefore subject to the provisions of 28 U.S.C. § 1915(g) should  
he seek leave to proceed in forma pauperis in a new action.